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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,504	08/22/2003	Makoto Takamura	033022-009	8738
21839 7590 12/17/2007 BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			EXAMINER PATEL, ASHOK	
			ART UNIT 2879	PAPER NUMBER
			NOTIFICATION DATE 12/17/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/645,504

Applicant(s)

TAKAMURA, MAKOTO

Examiner

Ashok Patel

Art Unit

2879

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,9 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: See Continuation Sheet.

Continuation of Attachment(s) 6). Other: a complete English translation copy of Japanese document 06-176870.

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/30/2007 has been entered.

2. Applicant's arguments with respect to claims 1, 4, 9 and 10 have been considered but are moot in view of the new ground(s) of rejection.

3. Claims 1, 4, 9 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the last big paragraph should be rephrased into sub-paragraph since so many different portions within the paragraph leads to confusions. The Examiner recommends rephrasing the last big paragraph especially regarding different limitations connected with the phrase "or", such as: (1) "wherein a metal is

formed of....." at lines 14 and 16; and (2) "metal being formed of one of a)....., b)....., c)....., d)....., e)....., f)..... or g).....".

Note that the term "metal oxide or g) an alloy" at line 22 should be corrected to --metal oxide and g) an alloy-- since line 19 recites the term "...being made of one of".

The term "with another metal" at line 22-23 leads to confusion as to whether the "another metal" refers ONLY to:

"g) an alloy of these metals a)-f) with another metal" or it ALSO refers to:

"a) an alkaline metal with another metal" or

"b) an alkaline earth metal with another metal", or

"c) alkaline metal fluorides with another metal", or

"d) alkaline earth metal fluorides with another metal" or

"e) alkaline metal oxides with another metal"

The use of inconsistent terminologies within the last big paragraph would cause undesirable misinterpretations especially regarding prior art rejection.

Claim 9 is also rejected since its language is parallel to that of claim 1.

Claims 4 and 10 are necessarily rejected since they depend upon claims 1 and 9 respectively.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Osamu et al (Japanese document 06-176870, of record).

As to claims 1 and 9, Osamu et al disclose applicant's claimed organic electroluminescent (EL) display device (at least Figures 2-4) including:

- a substrate (21),
- a first electrode (cathode 22) formed on the substrate,
- a first organic electroluminescence layer (14) provided on an upper layer of the first electrode;
- a second electrode (25) provided on the first organic electroluminescence layer;
- a second organic electroluminescence layer (26) provided on the second electrode, and
- a third electrode (a horizontal portion of element 28) provided on the second electroluminescence layer,

wherein at least one of the first and second electrodes is transparent and transmits electroluminescence light, and

wherein (1) a metal film formed of metal oxides or other metal (ITO or SnO₂ or gold or nickel or Ag (see detailed Description, paragraph 0011, 0019), on a boundary (a vertical left side portion of element 25, as clearly shown in Figure 2) between: the first electrode (22) which is a cathode and the first organic electroluminescence layer (24) or

(2) a metal film formed of metal oxides or other metal (ITO or SnO₂ or gold or nickel or Ag (see detailed Description, paragraph 0011, 0019), on a boundary (a vertical right side portion of element 28, as clearly shown in Figure 2) between: the third electrode (28) which is cathode and the second organic electroluminescence layer (26).

The limitation "so that a transparency of the transparent electrode is maintained and an increase in a resistance value of the transparent electrode is suppressed" at last two lines of claim 1 is a functional limitation which is narrative in form and does not constitute positive structure. The Examiner takes the position that since Osamu et al disclose all elements as recited in applicant's claim 1, Osamu et al's device would also

be able to perform the same function as recited in last two lines of applicant's claim 1.

As to claims 1 and 9, as mentioned earlier in the 35 U.S.C. 112, second paragraph rejection, applicant's claimed composition for the metal leads to confusions, the Examiner interprets the composition broadly and selectively within the Osamu et al prior art reference.

As to claims 4 and 10, applicant is claiming an information terminal including the organic EL device of claims 1 and 9, which is not disclosed by Osamu et al. However, it has been held that a recitation with respect to the manner in which a claimed EL device is intended to be employed/used does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987). Therefore, the intended use limitation of claims 4 and 10 is not given a patentable weight.

Additionally/alternatively as to claim 4 and 10, a recitation of the intended use of claimed invention within an information terminal must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended

use, then it means the claim, In re Casey, 152 USPQ 235 (CCPA 1967) and In re Otto, 136 USPQ 458, 459 (CCPA 1963). Therefore, the intended use limitation of claims 4 and 10 is not given a patentable weight.

6. The Examiner provides a complete English translation copy of the Japanese document 06-176870 to applicants even though the same Japanese document 06-176870 was submitted by applicant in past. During mailing of the last office action (on 07/13/2007), the Examiner did not provide the complete English translation copy of the Japanese document 06-176870 to applicant, since it was already of the record. The Examiner obtained the complete English translation copy of the Japanese document 06-176870 from internet web site.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok Patel whose telephone number is 571-272-2456. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on 571-272-2457. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval

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(PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Ashok Patel/
Ashok Patel
Primary Examiner
Art Unit 2879